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DECISION



2-1645  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20540

PLM-1  
Schwimer

FILE: B-204099

DATE: April 27, 1982

MATTER OF: Patricia A. Bodi - Payment of mileage allowance - Transportation of injured employee

DIGEST:

An employee was informed that another employee on temporary duty was in the hospital due to an automobile accident. The employee called her supervisor who told her to drive the injured employee back to her residence 90 miles away. Employee is entitled to a mileage allowance since we hold that travel which is authorized or approved in order to return an injured employee on TDY to his or her home should be treated as necessary to carry out the agency's duty and therefore such travel is on official business. B-176126, August 30, 1972, is overruled.

Ms. V. G. Leist, an authorized certifying officer of the Internal Revenue Service, Department of the Treasury, requests our decision as to the entitlement of Ms. Patricia A. Bodi to reimbursement for mileage. The issue in this case is whether an employee may be paid a mileage allowance for transporting another employee, who was injured while on temporary duty, back to her residence. We hold that the employee, Ms. Bodi, in driving the injured employee back to her residence, was engaged in official business and is entitled to be paid a mileage allowance for her travel.

On Friday, March 20, 1981, Ms. Bodi, an employee of the Internal Revenue Service (IRS) in Columbus, Ohio, received a phone call that another IRS employee, Ms. Mary Derwich, who was on temporary duty in Columbus, had been in an automobile accident and was at a local hospital. Ms. Bodi then called her supervisor in Cincinnati and received instructions to drive the employee to her home in Dayton, Ohio. Ms. Derwich was released from the hospital but her doctor stated that she could not drive since she had suffered a concussion. Ms. Derwich would not have been able to drive home in her own car anyway since it was wrecked in the accident. Ms. Bodi drove Ms. Derwich back to Ms. Bodi's home in Columbus for the night and then drove Ms. Derwich to her

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home in Dayton on Saturday. Ms. Bodi claims reimbursement for mileage for both her round trip to the hospital and her round trip to Dayton.

Ms. Bodi also claims reimbursement for mileage for a trip to Dayton made on March 25, 1981. According to the submission, this was a regular visit which Ms. Bodi was required to make for official business. During that day Ms. Bodi made two departures from her regular schedule. First, she picked up an employee in Columbus and drove her to Dayton to fill in for an absent employee. Second, she drove about 6 miles from her post of duty to Ms. Derwich's house to have her fill out the necessary paperwork concerning the accident.

The IRS denied Ms. Bodi's claim for mileage for all three trips because the travel was not justified as being for official Government business. The IRS also relied on our decision Charles E. Law, B-198299, October 28, 1980, in denying Ms. Bodi's claim. In that case, Mr. Law, who was on temporary duty (TDY), remained at his TDY site after the TDY was completed in order to be with a fellow employee assigned to the same TDY site who had become ill. Mr. Law incurred lodging, meals and other expenses while he remained at his TDY site. We held that Mr. Law could not be reimbursed for these expenses since the decision to remain at the TDY station was a personal choice not connected with the performance of official business. Although the rule established in the Law case is pertinent, it does not control our decision concerning Ms. Bodi's claim because of the different factual situation.

The total claim for mileage for the three trips is \$67.50. We shall discuss Ms. Bodi's claim for her trips on March 20 and 21, 1981, and then discuss her claim for the trip on March 25, 1981.

Payment of a mileage allowance to employees traveling on official business is authorized by 5 U.S.C. § 5704(a) (1976) which provides that "an employee who is engaged on official business for the Government" is entitled to a mileage allowance. However, we have held that an employee who uses his privately owned vehicle (POV) for the sole purpose of transporting other employees on official

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business is not performing official business away from his post of duty and, therefore, is not entitled to mileage under 5 U.S.C. § 5704(a), 28 Comp. Gen. 332 (1948); 22 Comp. Gen. 544 (1942). As an exception to the general rule stated above, we have allowed payment for mileage where no public transportation was available and where the administrative office determines it is advantageous to the Government. B-157035, June 29, 1963. We have also allowed mileage where an employee drove other employees in his vehicle instead of a Government vehicle. B-119607, May 21, 1954. Finally, we have allowed mileage expenses when in addition to furnishing transportation, business matters were discussed. B-123205, May 9, 1955.

In a recent case we allowed reimbursement to an employee on temporary duty for payments to a private firm for transporting his privately owned vehicle back to his permanent duty station since injury prevented his operation of the vehicle for the return trip. Richard L. Greene, 59 Comp. Gen. 57 (1979). In that case we determined that 5 U.S.C. § 5702(b), and FTR paragraph 1-2.4 authorized the expenses of return of a vehicle to a permanent duty station when an employee is incapacitated.

The Federal Travel Regulations do permit reimbursement of travel expenses to an incapacitated employee for transportation from his TDY site back to his official duty station prior to the completion of his temporary duty assignment. FTR paragraph 1-2.4. Nevertheless, in a similar situation to this case, we did not allow mileage expenses to an employee who transported an injured employee home from a TDY site, but we held that the employee may be reimbursed actual expenses for travel, including gasoline, oil, tolls, etc., to the extent that they do not exceed the cost by common carrier. B-176128, August 30, 1972.

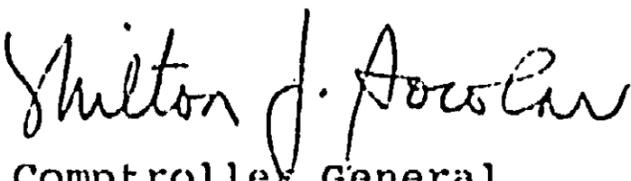
Part of B-176128 was overruled in 59 Comp. Gen. 57. We now overrule that part of B-176128 which denies a mileage allowance and limits reimbursement to actual expenses to an employee who transports an injured employee home from a TDY site. We do so partly because of the requirement in paragraph 1-4.1a of the FTR that a mileage allowance be paid for authorized use

of a POV and because of the administrative convenience of paying mileage for a POV as opposed to actual expenses. Therefore, we hold that travel which is authorized or approved in order to return an injured employee on TDY to his or her home should be treated as necessary to carry out the agency's duty under FTR paragraph 1-2.4 to provide return travel expenses for the injured employee. Hence, such travel is on official business and the necessary expenses thereof may be paid, including a mileage allowance when a POV is used.

Here, Ms. Derwich was on TDY while injured and was entitled to per diem and return transportation to her permanent duty station under FTR paragraph 1-2.4. Ms. Bodi was assigned by her supervisor to drive the injured employee home. Therefore, Ms. Bodi's trip was official business, and she is entitled to the use of her POV.

We shall now discuss Ms. Bodi's claim for mileage on March 25, 1981. From the record submitted, Ms. Bodi normally is reimbursed for mileage from her home in Columbus to the IRS office in Dayton. It appears that her two extra trips that day, to pick up one employee and to deliver forms to Ms. Derwich, were both incident to the performance of official business. Therefore, the total amount claimed for mileage on March 25, 1981, may be certified for payment.

Accordingly, the vouchers are being returned for action in accordance with this decision.

*for*   
Comptroller General  
of the United States